

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DARIAN BALCOM,

Plaintiff,

v.

GABE FIGUEROA,

Defendant.

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2:19cv506

Electronic Filing

VERDICT SLIP

We the jury empaneled in the above-caption case render the following findings of fact:

QUESTION NO. ONE

Has plaintiff proved by a preponderance of the evidence:

A) that plaintiff and Matthew Grebner were similarly situated at the time of plaintiff's arrest?

☒ yes ☐ no

B) that defendant lacked probable cause to arrest plaintiff?

☐ yes ☒ no

If you answered "yes" to either subpart or both subparts to Question No. One, please

answer Question No. Two. If you answered "no" to each subpart of Question No. One, plaintiff

cannot recover on her First Amendment Retaliation claim and you are to skip Questions Nos.

Two and Three and proceed directly to Question No. Four.

QUESTION NO. TWO

Has plaintiff proved by a preponderance of the evidence:

A) that she engaged in communications with defendant reflecting protected speech and/or conveying political beliefs?

☒ yes ☐ no

If you answered "yes" to subpart A of Question No. Two, please answer subpart B of Question No. Two. If you answered "no" to subpart A of Question No. Two, plaintiff cannot recover on her First Amendment Retaliation claim and you are to skip Question No. Three and proceed directly to Question No. Four.

B) that her protected speech and/or political beliefs were a substantial or motivating factor in defendant's decision to arrest her?

☒ yes ☐ no

If you answered "yes" to subpart B of Question No. Two, please answer Question No. Three. If you answered "no" to subpart B of Question No. Two, plaintiff cannot recover on her First Amendment Retaliation claim and you are to skip Question No. Three and proceed directly to Question No. Four.

QUESTION NO. THREE

Has defendant proved by a preponderance of the evidence:

A) that he had probable cause to arrest plaintiff?

☒ yes ☐ no

If your answer to subpart A of Question No. Three was "yes," then proceed to subpart B of Question No. Three. If your answer to subpart A of Question No. Three was "no," skip subpart B and proceed to Question No. Four.

B) has defendant proved that he would have arrested plaintiff based on that probable cause in any event - that is, he would have done so notwithstanding his consideration of the protected speech and/or protected beliefs that you found to have been a substantial or motivating factor in answering Question No. Two?

X yes _____ no

If you answered "yes" to both subparts of Question No. Three, defendant has proved his affirmative defense and plaintiff cannot recover on her First Amendment Retaliation claim. If you answered "no" to either subpart of Question No. Three, plaintiff can recover on her First Amendment Retaliation claim. After answering Question No. Three as directed, proceed to Question No. Four.

QUESTION NO. FOUR

Has plaintiff proved by a preponderance of the evidence that plaintiff and Matthew Grebner were similarly situated at the time of plaintiff's arrest?

X yes _____ no

If you answered "yes" to Question No. Four, please proceed to Question No. Five. If you answered "no" to Question No. Four, plaintiff cannot recover on her claim for enforcement of the law in violation of the Equal Protection Clause of the Fourteenth Amendment.

QUESTION NO. FIVE

Has plaintiff proved by a preponderance of the evidence that her gender or sex was a substantial or motivating factor in defendant's decision to arrest her?

____ yes X no

If you reached and answered "yes" to Question No. Five, plaintiff is entitled to recover on her claim for enforcement of the law in violation of the Equal Protection Clause of the Fourteenth Amendment. If you reached and answered "no" to Question No. Five, plaintiff cannot recover on her claim for enforcement of the law in violation of the Equal Protection Clause of the Fourteenth Amendment.

COMPENSATORY DAMAGES

You may only award damages on plaintiff's First Amendment Claim if you reached and answered "yes" to both subparts of Question No. Two, and you reached and answered "no" to either subpart A or subpart B of Question No. Three.

You may only award damages on plaintiff's claim for enforcement of the law in violation of the Equal Protection Clause if you reached and answered "yes" to Question No. Five.

If you answered the questions in any other way, your determinations of fact do not permit plaintiff to recover on either of her claims and your verdict is for defendant. In that event, you must sign and date the verdict slip and inform the court that you have finished your deliberations.

If you answered the questions in a way that entitles plaintiff to a verdict on one or both of her claims, then provide the amount of damages, if any, that you award plaintiff pursuant to the court's instructions on damages:

Compensatory Damages _____

Nominal Damages _____

Punitive Damages _____

Total Damages _____

Please sign and date the verdict slip and advise the court that you have finished your deliberations.

Date 6/28/2023

Brenda D. Fanala
Jury Foreperson